

REMARKS

Claims 1, 11, 19, 20, 28, and 40 have been amended for clarity. Claims 1-44 are pending.

The Examiner has rejected claims 10, 18, 27, 39 and 44 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Examiner asserts that the claim language "data is randomly generated" is not described by the specification. It is submitted that a process for randomly generating data is well known to those skilled in the art. When one searches for the phrase "random data generation" on Google, 20,100,000 links are presented. The results include thousands of readily available software tools for randomly generating data, such as "GS Data Generator" available from GSApps of San Jose, CA or "DTM Data Generator" available from SQLEdit. Additionally, the search results include numerous bots for randomly generating data, such as "RandomBots, Vortex" available from www.RandomBots.com. Accordingly, since those skilled in the art could readily and easily obtain mechanisms for randomly generating data, it is respectfully submitted that the claims comply with the requirements of 35 U.S.C. §112, first paragraph.

The Examiner has rejected claims 1, 11, 19, 20, 28, and 40 under 35 U.S.C. §112, second paragraph, as being indefinite. It is asserted that it is unclear how the "information is provided for selecting a server" and that the phrase "the server selection system" of claim 11 has insufficient antecedent basis. These claims have been amended to clarify such language.

Independent claims 1-8, 19-23, 25-35, and 40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jindal (US Patent No. 6,092,178) in view of Vanlit (US Patent No. 6,922,417). Independent claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Jindal (US Patent No. 6,092,178) in view of Vanlit and in further view of Mulligan (US Patent No. 6,212,190). The remaining dependent claims were rejected under 35 U.S.C. 103(a) as being unpatentable over Jindal in view of Vanlit and further in view of one or more of the following references: Mulligan, Alden et al. (US Patent No. 6,101,543), and Baehr (US Patent No. 5,884,025).

Independent claims 1, 20, 28, and 40 explicitly recite "dividing the response datagram into multiple fragments even though the network is configured to allow transmission of the response datagram through the network without fragmentation of the response datagram" or mechanisms for performing such step.

The Examiner admits that Jinda fails to explicitly teach “where the packets are fragmented wherein the multiple fragments are obtained by dividing the response datagram into multiple fragments, and transmitting the multiple fragments to a network node.” The secondary reference Vanlit is asserted to teach this limitation. Although Vanlit does teach analyzing network latency when fragmentation occurs, Vanlit fails to teach or suggest that a response is fragmented even though the network is configured to allow transmission of the response datagram through the network without fragmentation of the response datagram, in the manner claimed. Specifically, Vanlit teaches that “[u]pon transmission of a packet from a source to destination, it is not uncommon for the packet to experience fragmentation.” (See Col. 7, Lines 9-11, Emphasis added). Vanlit then goes on to describe handling the fragments when fragmentation has been experienced. See Col. 9, Lines 37-40. Vanlit fails to teach or suggest any process for fragmentation other than to briefly mention that fragmentation is “not uncommon” and may be “experienced.” Since Vanlit fails to teach or suggest mechanisms for fragmenting a response even though the network is configured to allow transmission of the response datagram through the network without fragmentation of the response datagram in the manner claimed, it is respectfully submitted that claims 1, 20, 28, and 40 are patentable over Jinda and Vanlit.

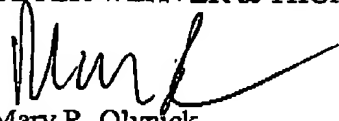
Claim 11 explicitly recites “dividing the response datagram having a size smaller than the maximum transfer unit into multiple fragments.” The Examiner admits that the primary reference Jinda and secondary reference Vanlit fail to teach identifying a maximum transfer unit (MTU). The Examiner cites the secondary reference Mulligan for teaching this step. However, in view of the forgoing, it is also respectfully submitted that Jinda and Vanlit and Mulligan fail to teach “dividing the response datagram having a size smaller than the maximum transfer unit into multiple fragments.” That is, the cited references fail to teach or suggest mechanisms for fragmenting a response datagram that has a smaller size than the allowed MTU, and accordingly, can be transmitted through the network without fragmentation (as described above). Thus, it is submitted that claim 11 is patentable over the art of record.

Claim 19 explicitly recites “providing multiple response fragments, wherein three or more response fragments have different lengths.” The Examiner has not pointed to a reference that teaches mechanisms for fragmenting into three or more different lengths, in the manner claimed. Since the cited references Jinda and Vanlit fail to teach or suggest this limitation, it is asserted that claim 19 is patentable over the cited art.

In light of the above remarks relating to independent claims 1, 11, 19, 20, 28, and 40, the remaining dependent claims are believed allowable for at least the reasons noted above.

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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